

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4495

BY DELEGATES TONEY, J. JEFFRIES, ROWAN, CAMPBELL,

D. KELLY, COOPER AND PORTERFIELD

[Introduced January 23, 2020; Referred to the
Committee on Technology and Infrastructure then
Government Organization]

1 A BILL to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating
2 to extending the validity of a level one instruction driver's permit to 180 days after a person
3 who is an active member of the military reaches the age of 18 years.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-3a. Graduated driver's license.

1 (a) Any person under the age of 18 may not operate a motor vehicle unless he or she has
2 obtained a graduated driver's license in accordance with the three-level graduated driver's license
3 system described in the following provisions.

4 (b) Any person under the age of 21, regardless of class or level of licensure, who operates
5 a motor vehicle with any measurable alcohol in his or her system is subject to ~~the provisions of~~
6 §17C-5-2 of this code and §17C-5A-2 of this code. Any person under the age of 18, regardless of
7 class or licensure level, is subject to the mandatory school attendance and satisfactory academic
8 progress provisions of §18-8-11 of this code.

9 (c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other
10 requirements prescribed in this code may be issued a level one instruction permit.

11 (1) *Eligibility.* — The division ~~shall~~ may not issue a level one instruction permit unless the
12 applicant:

13 (A) Presents a completed application, as prescribed by ~~the provisions of~~ §17B-2-6 of this
14 code, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of
15 the graduated driver's license and executed by a parent or guardian entitled to custody of the
16 applicant;

17 (B) Presents a certified copy of a birth certificate issued by a state or other governmental
18 entity responsible for vital records unexpired, or a valid passport issued by the United States
19 government evidencing that the applicant meets the minimum age requirement and is of verifiable
20 identity;

21 (C) Passes the vision and written knowledge examination and completes the driving under
22 the influence awareness program, as prescribed in §17B-2-7 of this code;

23 (D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the~~
24 ~~provisions of~~ §18-8-11 of this code; and

25 (E) Pays a fee of \$7.50, which shall permit the applicant one attempt at the written
26 knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September
27 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer
28 Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee
29 amount in a single year.

30 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued
31 under the provisions of this section is valid until 30 days after the date the applicant attains the
32 age of 18 and is not renewable: *Provided, That for an applicant who is an active member of any*
33 *branch of the United States military a level one instruction permit issued under the provisions of*
34 *this section is valid until 180 days after the date the applicant attains the age of 18.* However, any
35 permit holder who allows his or her permit to expire prior to successfully passing the road skills
36 portion of the driver examination, and who has not committed any offense which requires the
37 suspension, revocation or cancellation of the instruction permit, may reapply for a new instruction
38 permit under §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt
39 of a second conviction for a moving violation of traffic regulations and laws of the road or violation
40 of the terms and conditions of a level one instruction permit, which convictions have become final
41 unless a greater penalty is required by this section or any other provision of this code. Any person
42 whose instruction permit has been revoked is disqualified from retesting for a period of 90 days.
43 However, after the expiration of 90 days, the person may retest if otherwise eligible. In addition to
44 all other provisions of this code for which a driver's license may be restricted, suspended, revoked
45 or canceled, the holder of a level one instruction permit may only operate a motor vehicle under
46 the following conditions:

47 (A) Under the direct supervision of a licensed driver, 21 years of age or older, or a driver's
48 education or driving school instructor who is acting in an official capacity as an instructor, who is
49 fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be
50 operated with no more than two additional passengers, unless the passengers are family
51 members;

52 (B) Between the hours of five a.m. and 10 p.m.;

53 (C) All occupants must use safety belts in accordance with ~~the provisions of~~ §17C-15-49
54 of this code;

55 (D) Without any measurable blood alcohol content, in accordance with ~~the provisions of~~
56 §17C-5-2(h) of this code; and

57 (E) Maintains current school enrollment and is making satisfactory academic progress or
58 otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code.

59 (F) A holder of a level one instruction permit who is under the age of 18 years shall be
60 prohibited from using a wireless communication device while operating a motor vehicle, unless
61 the use of the wireless communication device is for contacting a 9-1-1 system. A person violating
62 the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for
63 the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent
64 offense be fined \$75.

65 (d) *Level two intermediate driver's license.* — An applicant 16 years of age or older,
66 meeting all other requirements of the code, may be issued a level two intermediate driver's
67 license.

68 (1) *Eligibility.* — The division shall may not issue a level two intermediate driver's license
69 unless the applicant:

70 (A) Presents a completed application as prescribed in §17B-2-6 of this code;

71 (B) Has held the level one instruction permit conviction-free for the 180 days immediately
72 preceding the date of application for a level two intermediate license;

73 (C) Has completed either a driver's education course approved by the State Department
74 of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours
75 of nighttime driving, certified by a parent or legal guardian or other responsible adult over the age
76 of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph
77 ~~shall~~ may be construed to require any school or any county board of education to provide any
78 particular number of driver's education courses or to provide driver's education training to any
79 student;

80 (D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11
81 of this code;

82 (E) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

83 (F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this
84 fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor
85 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not
86 exceed 10 percent of the total fee amount in a single year.

87 (2) *Terms and conditions of a level two intermediate driver's license.* — A level two
88 intermediate driver's license issued under the provisions of this section shall expire 30 days after
89 the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E
90 license, whichever comes first. In addition to all other provisions of this code for which a driver's
91 license may be restricted, suspended, revoked or canceled, the holder of a level two intermediate
92 driver's license may only operate a motor vehicle under the following conditions:

93 (A) Unsupervised between the hours of five a.m. and 10 p.m.;

94 (B) Only under the direct supervision of a licensed driver, age 21 years or older, between
95 the hours of 10 p.m. and five a.m. except when the licensee is going to or returning from:

96 (i) Lawful employment;

97 (ii) A school-sanctioned activity;

98 (iii) A religious event; or

99 (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent
100 bodily injury or death of another;

101 (C) All occupants shall use safety belts in accordance with ~~the provisions of~~ §17C-15-49
102 of this code;

103 (D) For the first six months after issuance of a level two intermediate driver's license, the
104 licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless
105 these passengers are family members of the licensee; for the second six months after issuance
106 of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying
107 more than one passenger less than 20 years old, unless these passengers are family members
108 of the licensee;

109 (E) Without any measurable blood alcohol content in accordance with ~~the provisions of~~
110 §17C-8-7 of this code;

111 (F) Maintains current school enrollment and is making satisfactory academic progress or
112 otherwise shows compliance with ~~the provisions of~~ §18-8-11s of this code;

113 (G) A holder of a level two intermediate driver's license who is under the age of 18 years
114 shall be prohibited from using a wireless communication device while operating a motor vehicle,
115 unless the use of the wireless communication device is for contacting a 9-1-1 system. A person
116 violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof,
117 shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or
118 subsequent offense be fined \$75.

119 (H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A),
120 (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the terms and conditions of a
121 level two intermediate driver's license, the licensee shall enroll in an approved driver improvement
122 program unless a greater penalty is required by this section or by any other provision of this code;
123 and

124 At the discretion of the commissioner, completion of an approved driver improvement

125 program may be used to negate the effect of a minor traffic violation as defined by the
126 commissioner against the one year conviction-free driving criteria for early eligibility for a level
127 three driver's license and may also negate the effect of one minor traffic violation for purposes of
128 avoiding a second conviction under paragraph (I) of this subdivision; and

129 (I) Upon the second conviction for a moving traffic violation or a violation of the terms and
130 conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor
131 vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's
132 18th birthday, whichever is longer unless a greater penalty is required by this section or any other
133 provision of this code. Any person whose driver's license has been revoked as a level two
134 intermediate driver, upon reaching the age of 18 years and if otherwise eligible may reapply for
135 an instruction permit, then a driver's license in accordance with ~~the provisions of~~ §17B-2-5, §17B-
136 2-6 and §17B-2-7 of this code.

137 (e) *Level three, full Class E license.* — The level three license is valid until 30 days after
138 the date the licensee attains his or her 21st birthday. Unless otherwise provided in this section or
139 any other section of this code, the holder of a level three full Class E license is subject to the same
140 terms and conditions as the holder of a regular Class E driver's license.

141 A level two intermediate licensee whose privilege to operate a motor vehicle has not been
142 suspended, revoked or otherwise canceled and who meets all other requirements of the code
143 may be issued a level three full Class E license without further examination or road skills testing
144 if the licensee:

145 (1) Has reached the age of 17 years; and

146 (A) Presents a completed application as prescribed by ~~the provisions of~~ §17B-2-6 of this
147 code;

148 (B) Has held the level two intermediate license conviction free for the 12-month period
149 immediately preceding the date of the application;

150 (C) Has completed any driver improvement program required under paragraph (G),

151 subdivision (2), subsection (d) of this section; and

152 (D) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents
153 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
154 established in §3-3-12 of this code;

155 (E) Presents a driver's eligibility certificate or otherwise shows compliance with the
156 provisions of §18-8-11 of this code; or

157 (2) Reaches the age of 18 years; and

158 (A) Presents a completed application as prescribed by ~~the provisions of §17B-2-6~~ of this
159 code; and

160 (B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may
161 adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau
162 of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee
163 may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents
164 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
165 established in §3-2-12 of this code.

166 (f) A person violating the provisions of the terms and conditions of a level one or level two
167 intermediate driver's license is guilty of a misdemeanor and, upon conviction thereof, shall for the
168 first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense
169 be fined \$75.

NOTE: The purpose of this bill is to extend the validity of a level one instruction driver's permit to 180 days after a person who is an active member of the military reaches the age of 18 years.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.